

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE

Call to Order: By **CHAIRMAN BOB KEENAN**, on March 14, 2001 at 9:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: HB 73; HB 41; SB 315; SB 322;
SB 533

{Tape : 1; Side : A}

EXECUTIVE ACTION ON HB 73

Motion: SEN. COBB moved that HB 73, THE FULL COST ACCOUNTING PROGRAM, DO PASS.

Motion: SEN. JERGESON moved that AMENDMENT (HB007302.ajm) BE ADOPTED.

SENATOR GREG JERGESON explained the amendment. **EXHIBIT**(fcs58a01)

SEN. KEN MILLER asked why the amendment was needed. SEN. JERGESON said it might enable the bill to actually accomplish something because it coordinates it with the process that is already in law. SEN. MILLER said he would not oppose the amendment.

Vote: Motion that AMENDMENT HB007301.ajm BE ADOPTED carried unanimously.

Vote: Motion that HB 73 DO PASS AS AMENDED carried unanimously.

EXECUTIVE ACTION ON HB 41

Motion: SEN. COBB moved that HB 41 TO REVISE LAWS GOVERNING DEDICATED REVENUE AND STATUTORY APPROPRIATIONS DO PASS.

SEN. ALVIN ELLIS, SD 12, Red Lodge, explained the impact of the bill on 1995's HB 201. In 1991, as a result of a forest service study, there was between 100 and 110 million board feet of timber grown on state lands every year. At one time, the harvest had been over 50 million board feet but had dropped to \$32 million. HB 201 directed the state to try to cut sustained yields. They thought the cut could be increased 50-55 million board feet. That has not happened. Salvage sale on state lands in the Bitterroot garnered \$5 million this fiscal year. He stated that SEN. CHRISTIAENS had an amendment statutorily appropriating timber harvest funds to schools for technology acquisition, which he would support. If the earmarking of the funds is stricken, the schools lose the entitlement. Earmarking provides a good incentive to increase the state land cut.

SEN. MCCARTHY asked for clarification on the amendment. SEN. CHRISTIAENS said it was HB004101.ajm.

SEN. TOM ZOOK asked what would happen if the bill was tabled. SEN. ELLIS said that current state law would prevail. SEN. ZOOK asked about the fluctuation in revenues. Kathy Fabiano, OPI,

reported the revenue for the current year is 100 percent higher than originally estimated. Their appropriation was \$1.5 million, and the revenue came in at \$300 million.

SEN. BILL TASH asked if the fluctuation was due to salvage logging. **Ms. Fabiano** said a variety of factors could affect revenue.

SEN. ROYAL JOHNSON asked what happened to the other \$1.5 million. **Ms. Fabiano** said it was in the general fund earmarked for schools. **SEN. JOHNSON** inquired if they had asked for the appropriation authority in the current biennium. **Ms. Fabiano** affirmed that they were requesting a supplemental in HB 3.

SEN. ZOOK said his understanding was that an amendment drawn up by **Roger Lloyd** for **SEN. GROSFIELD** would establish a base appropriation for the program. **Ms. Fabiano** said the appropriation is always a one-time only. The law earmarks a specific calculation of revenue. Even with a base appropriation, if the calculation produces more revenue than the base appropriation, the full amount that is earmarked for schools cannot be distributed. **SEN. ZOOK** said he understood that they could only spend what they were appropriated, but he was talking about a base appropriation for the following session. By that time, it would be known if it was over and that could be accommodated in the next biennium. **Ms. Fabiano** said the law requires that the amount that is available to schools that is collected in the prior year be sent to schools by September of the next year. Even with the base appropriation, if the appropriation was less than the amount of money than was collected, they would have to wait for a supplemental from the legislature.

CHAIRMAN KEENAN said an amendment prepared by **Roger Lloyd** (HB004101.arl) was in conflict. **SEN. CHRISTIAENS** said that was how he looked at it too.

SEN. MIGNON WATERMAN asked what the differences were and asked if both of them established a special revenue account. **Jon Moe, Fiscal Division**, passed out a chart of HB 41 options.

EXHIBIT (fcs58a02)

SEN. WATERMAN had a concern with the lawsuit that was filed. Money was not being segregated and was losing its identity in the general fund. She thought an amendment was needed for a special revenue account. **SEN. MILLER** introduced amendment HB004104.ajm.

EXHIBIT (fcs58a03)

Dal Smilie, Department of Administration, explained there was litigation from MONTRUST. SB 83 in 1995 took earmarked funds and statutory appropriations and merged them in the general fund. Some of that was money from the school trust. The theory of the lawsuit was that trust law and the constitution require that all that money be segregated and identified and the interest for it be identified. That is thought to be a reasonable theory. He recommended undoing parts of SB 83. He handed out his written testimony supporting an amendment to HB 41, a draft of the amendment, and a copy of the litigation. **EXHIBIT(fcs58a04)**
EXHIBIT(fcs58a05) **EXHIBIT(fcs58a06)**

SEN. ZOOK said he talked to **Clayton Schenk, Legislative Fiscal Analyst**. His response was that all money for schools are tracked with a sub account number within the general fund. **SEN. CHRISTIAENS** asked if the interest earnings stay with the funding source within the sub account. **SEN. ZOOK** said he couldn't answer that but did not have any problem with the amendment. **SEN. MILLER** said the interest goes into the general fund account. **SEN. JERGESON** claimed that **SEN. MILLER's** and **SEN. CHRISTIAENS'** amendments were not in conflict and can coincide. The only one that may conflict would be the **Roger Lloyd** amendment prepared for **SEN. GROSFIELD**.

Mr. Moe explained the chart (exhibit 2). **SEN. WATERMAN** asked for an explanation of **SEN. MILLER's** amendment (HB004104.ajm). **Mr. Moe** said in terms of the chart, **SEN. MILLER's** amendment is broader in terms of the timber sales account. The funds would go into a state special account, the SEA account, instead of the general fund.

SEN. ZOOK declared that he was thinking of a substitute motion to dispense with all the amendments by tabling. He thought the main purpose of the bill was to remove the statutory appropriation. He thought there was little to be gained regarding the livestock and hard rock mining part of the bill and there was general fund impact. **CHAIRMAN KEENAN** asked what impact that would have on the lawsuit and how that could be solved. **Mr. Smilie** thought that if the interest could be identified, that would do away with some of the argument of the lawsuit. He thought the bill looked like a good vehicle to do that, or another vehicle would be needed. **SEN. WATERMAN** said she would normally agree with **SEN. ZOOK** but had concerns about the lawsuit. The bill would create a statutory account, it would not change where the money goes. It will change where the interest goes. She wanted to avoid the lawsuit and paying the attorney fees. **SEN. CHRISTIAENS** thought his amendment did that but that **SEN. MILLER's** amendment should also be adopted along with an additional amendment that deals

with the interest. He did not disagree with **SEN. ZOOK** regarding the livestock and hard rock mining issues. He thought it important to avoid the lawsuit. **SEN. MILLER** said he would resist a motion to table. He thought the bill was an important vehicle to help with the lawsuit. In the past, he had been for de-earmarking, but in this case he would like to see it re-earmarked if it would clearly show that what is taken off the trust lands goes to the schools. *{Tape : 1; Side : B}* **CHAIRMAN KEENAN** expressed that **Greg Petesch** was on call as needed. **SEN. WATERMAN** suggested that **Jon Moe** work with all the amendments and come up with an amendment or set of amendments. She did not have a problem with stripping the other agencies out of the bill and using it as the vehicle to solve the school trust land issue. **SEN. JOHNSON** asked if the interest would go into the sub account within the general fund. **CHAIRMAN KEENAN** and **SEN. WATERMAN** indicated that was not true. **SEN. JOHNSON** asked why there was no board feet number in the **GROSFIELD** amendment. **Mr. Moe** said the difference with that amendment is that the formula changes. The amount of board feet does not matter. The **GROSFIELD** amendment takes that out of the bill. **SEN. JOHNSON** said that all that was happening was the creation of the special fund. **Mr. Moe** said it would be in education but not earmarked. **SEN. JERGESON** said that the only money that would go into technology for schools in the **GROSFIELD** amendment would be that which was appropriated. It would effectively be repealing HB 201. **SEN. ZOOK** said he would not vote for that amendment. **SEN. JERGESON** felt it important to pass **SEN. CHRISTIAENS'** amendment. He said **SEN. MILLER's** amendment was complementary and helped use the bill as a vehicle to preempt the lawsuit. **SEN. MILLER** suggested an amendment be drafted to include **SEN. CHRISTIAENS'** amendment and his amendment with the interest included in it, and striking the other departments. **SEN. BECK** asked for an explanation of the lawsuit. **Mr. Smilie** indicated the lawsuit was brought by MONTRUST. **SEN. BECK** commented that MONTRUST protects the state's trust fund. **Mr. Smilie** said they had brought several pieces of litigation in the past. Their theory is that the school trust money and interest are segregated in the general fund. The legislature gives an equivalent amount and more back. Under the constitutional theory, the school trust fund is sacrosanct and under general trust law there is a duty as a trustee to get reasonable income on the trust, preserve and protect the trust and not have a mixed duty when its in with another fund. The fund needs to be in a segregated fund with its interest. The lawsuit will be further amended. There is another argument in the lawsuit that the legislature must fund the schools at some constitutional minimal level and only then can the trust money be used on top of that. That is an expensive argument if they should prevail. The department felt that the parts that MONTRUST

had the best argument on could be dealt with by the bill. If those are set aside, the litigation may not go forward. **SEN. CHRISTIAENS** wondered if the portion about board feet was needed. He suggested that the timber sale revenues would be a statutory appropriation, would be earmarked and that the interest and income would automatically flow with HB 2 appropriating to the school districts. He wondered if it was specific to SB 201. **SEN. BILL CRISMORE** said he did not remember 18 million board feet being set aside for technology in committee. **SEN. ELLIS** said in HB 201 there was the possibility of an additional cut. The additional cut would go to technology. He said **SEN. MILLER's** amendment deals with the balance. **SEN. CRISMORE** asked if 42 million was the cut currently. **SEN. ELLIS** referred to the cut in the Bitterroot as being 15 million board feet. He didn't know when the funds come in from that. **SEN. CRISMORE** expressed that research was needed as to how much would be earmarked for technology in various bills. **CHAIRMAN KEENAN** advised **SEN. MILLER, SEN. ZOOK,** and **SEN. CHRISTIAENS** to work on the bill. **SEN. ELLIS** said the reasons for doing it were the same as 6 years ago. It encourages the cut, which keeps the mills going, which helps the schools. It is an incentive. There was a reason to earmark. **CHAIRMAN KEENAN** asked **SEN. ELLIS** and **Kathy Fabiano** to also work on the bill. He hoped the Department of Administration would continue to work on the lawsuit.

The motion on SB 41 by **SEN. COBB** was withdrawn.

EXECUTIVE ACTION ON SB 315

Motion: **SEN. MILLER** moved that **SB 315, SUBSIDIZED PREMIUM FOR COMPREHENSIVE HEALTH CARE COVERAGE, DO PASS.**

Motion: **SEN. KEENAN** moved that **AMENDMENT TO SB 315 (SB031501.ajm) BE ADOPTED.**

CHAIRMAN KEENAN explained that the board of the MCHA had no intention of using any state funds to implement the sliding scale. The amendment would back that up in the bill. Only federal or private funds would be allowed to be used to implement the sliding scale.

Vote: Motion that **AMENDMENT (SB031501.AJM) BE ADOPTED** carried unanimously.

Motion/Vote: **SEN. MCCARTHY** moved that **SB 315 DO PASS AS AMENDED.** Motion carried unanimously.

SEN. JOHNSON asked about the \$15 million subsidy that hospitals give to State Fund as a discount. **CHAIRMAN KEENAN** wasn't sure about the figure. He said SB 441 is an MCHA study, and he hoped the issue would become part of the study. Reimbursement rates for hospitals are set by governments for Medicaid, Medicare, Indian Health Service and Work Comp. The 68 percent paid as reimbursement when work comp was in trouble has never been adjusted. The issue needs to be part of the study and fixed in the next session. **SEN. CHRISTIAENS** commented that his notes showed that there were 26,000 uninsured and that total uncompensated care was about \$67 million a year. He said **Bob Olsen's** testimony was that the hospital association is subsidizing about \$15 million. **SEN. JOHNSON** asked what could be learned from a study. He thought something should be done about it and asked if it could be done in SB 315. **CHAIRMAN KEENAN** said his approach would be to pay Medicaid reimbursement rates plus 15 percent. Medicaid reimbursement is 92 percent of cost. There is an 8 to 10 percent fudge factor because the feds do not allow the cost to include depreciation on equipment, or parking lot paving and others. Medicaid reimbursement is really about 83-85 percent. He wanted to get close to cost. He said he might be able to amend in a reimbursement mechanism. Medicare statewide pays all hospitals 109 percent of cost. He thought the bill could handle an amendment, but the medical community would be asked to come up to the plate again without adjusting the work comp reimbursement. **SEN. CHRISTIAENS** thought staff could be asked to look at a fiscal note. If uncompensated care could be lowered, premiums could be lowered for everyone else. There are some reimbursement increases in the HB 2 to increase some provider rates. **CHAIRMAN KEENAN** said the insurance and the uninsured are not being looked at that much in this session, but it is on the horizon.

EXECUTIVE ACTION ON SB 322

SEN. SHEA explained amendments to SB 322 (SB032206.aem). She said they tried to address all the concerns with the bill. She said the bill as amended will address an immediate need.

EXHIBIT (fcs58a07)

{Tape : 2; Side : A}

SEN. TESTER asked which account was eliminated. **John Tubbs, DNRC**, replied that the amendments clarify that the resource indemnity groundwater assessment tax shall be the source of revenue. The oil and gas taxes were eliminated from the distribution. **SEN. ZOOK** stated the groundwater issue was important to the methane activity in his district and wondered how that would be affected. **Mr. Tubbs** said the groundwater assessment program would be held intact. He recalled that **REP.**

BALES brought forth a bill that earmarks part of the tax for a protective fund for water users.

SEN. WATERMAN asked if the Asarco temporary shutdown would be termed a closure or permanent reduction in terms of the bill. She also hesitated to say that temporary shutdowns would qualify people for the program. The Asarco workers are having trouble qualifying for a number of retraining programs, even though they are being told to find other jobs. **Mr. Moe** thought there might need to be individual legal determinations. If a company says a shutdown is temporary, it might have to be treated as such.

SEN. WATERMAN thought she might offer an amendment on the floor to solve the problem.

Gary Wright, Department of Labor and Industry, said that under the Workforce Investment Act, if an employer will not give a specific date of layoff, it is considered a permanent layoff.

SEN. WATERMAN asked if that would cover the Asarco layoff. **Mr. Wright** agreed. **SEN. JOHNSON** asked who would be eligible and if Montana Resources employees be eligible for the scholarship program. **Mr. Wright** said the department would follow federal Workforce Investment Act law. **SEN. JOHNSON** asked about other industries. **Mr. Wright** declared that the timber industry workers sometimes qualify. The goal is to put people back to work. **SEN. BECK** asked about the aluminum plant employees in Columbia Falls. **Mr. Wright** said funds had been requested from the US Department of Labor under the Workforce Investment Act to provide retraining funds for those employees. **SEN. BECK** asked if they would be eligible under SB 322. **SEN. BECK** said they are getting paid full time for a year even though they are laid off. **SEN. SHEA** did not think the aluminum plant would qualify as a natural resource industry. **SEN. BECK** disagreed. **SEN. BECK** asked if any areas would be harmless. **Mr. Tubb** said the impact of the bill would be to reduce the allocations to the reclamation development grants program by \$150,000 and the orphan share for \$150,000 for the next five years.

SEN. JERGESON asked about long term effects on the grant program. **Mr. Tubbs** said it would be an appropriations issue in HB 2. **SEN. JERGESON** asked about reducing the grants or the appropriation. He thought an amendment was needed. **Mr. Wright** confirmed that if the bill passes, there would be an allocation needed in HB 2 for \$150,000. All monies are currently appropriated. Any bills that affect those allocations will have an effect on appropriations. **SEN. JERGESON** said that unless action was taken on HB 2 to reduce any of the appropriations to the agencies, the automatic effect would be to reduce or to raise the line in HB 7 on projects by \$150,000. **Mr. Tubbs** thought the opposite was the case. Action

would have to be taken on HB 7 to reduce the appropriation or action on HB 2 to balance the fund. **SEN. JERGESON** said a negative fund balance would not be advised, or taking it out of HB 7. An HB 2 adjustment would either reduce the agency budgets by that amount or fund the agencies out of the general fund.

SEN. ZOOK contended that the aluminum plant would qualify as a natural resource industry. He also pointed out that SB 322 is an appropriation made on the Senate side. **SEN. JERGESON** said there was a fine line between an allocation and an appropriation. He said allocating to various funds meant another bill to appropriate the money.

SEN. NELSON asked if there had been a change in the definitions regarding term of employment. **SEN. SHEA** said that had been her intention. **SEN. NELSON** said that was an important issue. She asked how the amendments altered the funding source. **Mr. Tubbs** explained the tax revenue in RIGWA and the capping of the fund. He pointed out that when the fund reaches \$100 million, it is earmarked for mineral reclamation grants. He said SB 322 would impose a \$300,000 allocation from the ground water assessment program each year. It excludes the oil and gas tax.

SEN. CHRISTIAENS asked about the aluminum plant in Columbia Falls and Asarco. He asked what allows the retraining of workers that are currently on a payroll. He asked about financial criteria for obtaining work incentive funds. **Mr. Wright** said there is no means testing under the Workforce Investment Act for dislocated workers. If an employee is laid off with no specific date of return, they are eligible. **SEN. CHRISTIAENS** asked if the bill would only apply to those in mining or smelting. **SEN. SHEA** said the definitions on page 2 of the bill included the fields of oil and gas development, mining, timber harvesting processes or industries directly related to oil and gas development, mining, or timber harvesting processing. She did not see the aluminum plant workers qualifying. **SEN. CHRISTIAENS** said amending the word "smelting" into the bill applied only to two businesses, when businesses all over the state are closing due to deregulation. **SEN. CRISMORE** thought the bill would apply to his area with 2 sawmills laying off crews indefinitely. **SEN. CHRISTIAENS** asked how adopting amendments 5 and 6 affected that. **SEN. CRISMORE** said it would not exclude those people out of the program. *{Tape : 2; Side : B}* **SEN. CHRISTIAENS** said the governor's office has \$1.5 million of discretionary funds for job training and retraining programs. He thought that with all the plant closures, that would be the appropriate funding source rather than RIGWA. **SEN. SHEA** said that fund was a two year

program that fluctuates. She said it was the governor's decision.

SEN. SHEA said that most concerns were satisfied by the amendments. She would see that **SEN. NELSON's** concern was addressed. She asked for support for the bill.

Vote: Motion that **AMENDMENTS TO SB 322 (SB032206.aem) BE ADOPTED carried unanimously.**

Motion: **SEN. SHEA** moved that **SB 322 DO PASS AS AMENDED.**

SEN. ZOOK commented that he wished he could support the bill. He believed it was an appropriation and he couldn't support the motion.

Vote: Motion failed 8-10 with Christiaens, Crismore, Jergeson, McCarthy, Shea, Tash, Tester, and Waterman voting aye.

Motion: **SEN. SHEA** moved **DO NOT PASS SB 322.**

Substitute Motion: **SEN. ZOOK** moved that **SB 322 BE TABLED.**

Vote: Motion passed 10-8 with Christiaens, Crismore, Jergeson, McCarthy, Shea, Tash, Tester, and Waterman voting no.

EXECUTIVE ACTION ON HB 533

Motion/Vote: **SEN. MILLER** moved that **HB 533 DO PASS. Motion carried 17-1 with Waterman voting no.**

The committee held an informal discussion regarding future executive action.

ADJOURNMENT

Adjournment: 10:35 A.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT (fcs58aad)